

31A-21-101. Scope of Chapters 21 and 22.

(1) Except as provided in Subsections (2) through (6), this chapter and Chapter 22, Contracts in Specific Lines, apply to all insurance policies, applications, and certificates:

- (a) delivered or issued for delivery in this state;
- (b) on property ordinarily located in this state;
- (c) on persons residing in this state when the policy is issued; or
- (d) on business operations in this state.

(2) This chapter and Chapter 22 do not apply to:

- (a) an exemption provided in Section 31A-1-103;
- (b) an insurance policy procured under Sections 31A-15-103 and 31A-15-104;
- (c) an insurance policy on business operations in this state:

(i) if:

(A) the contract is negotiated primarily outside this state; and

(B) the operations in this state are incidental or subordinate to operations outside this state; and

(ii) except that insurance required by a Utah statute shall conform to the statutory requirements; or

(d) other exemptions provided in this title.

(3) (a) Sections 31A-21-102, 31A-21-103, 31A-21-104, Subsections 31A-21-107(1) and (3), and Sections 31A-21-306, 31A-21-308, 31A-21-312, and 31A-21-314 apply to ocean marine and inland marine insurance.

(b) Section 31A-21-201 applies to inland marine insurance that is written according to manual rules or rating plans.

(4) A group or blanket policy is subject to this chapter and Chapter 22, except:

(a) a group or blanket policy outside the scope of this title under Subsection 31A-1-103(3)(h); and

(b) other exemptions provided under Subsection (5).

(5) The commissioner may by rule exempt any class of insurance contract or class of insurer from any or all of the provisions of this chapter and Chapter 22 if the interests of the Utah insureds, creditors, or the public would not be harmed by the exemption.

(6) Workers' compensation insurance, including that written by the Workers' Compensation Fund created under Chapter 33, Workers' Compensation Fund, is subject to this chapter and Chapter 22.

(7) Unless clearly inapplicable, any provision of this chapter or Chapter 22 applicable to either a policy or a contract is applicable to both.

Amended by Chapter 297, 2011 General Session

31A-21-102. Oral contracts of insurance and binders.

(1) "Binder" means a writing which describes the subject and amount of insurance and temporarily binds insurance coverage pending the issuance of an insurance policy. "Binder" does not include conditional receipts by life insurance companies under which issuance of the policy or coverage under the policy is contingent upon the acceptability of the risk to the insurer.

(2) Binding oral contracts of insurance may only be made as to casualty insurance, liability insurance, property insurance, vehicle liability insurance, workers' compensation insurance, and as to combinations of these coverages. The insurer shall issue a policy or binder as soon as reasonably possible after negotiation of any oral contract under this subsection.

(3) No binder is valid beyond the issuance of the policy as to which the binder was given, or beyond 150 days from the binder's effective date, whichever occurs first.

(4) If a policy has not been issued as to a binder, the binder may be extended or renewed beyond 150 days, but only upon the commissioner's written approval, or under rules adopted by the commissioner.

(5) A binder may be cancelled by the insurer prior to its expiration date only in the same manner as and subject to the same restrictions that apply to insurance policies under Section 31A-21-303.

Amended by Chapter 261, 1989 General Session

31A-21-103. Capacity to contract.

Any person 16 years of age or older who is otherwise competent to contract under Utah law, and who is not subject to any legal disability, may contract for insurance. If there is a conservator appointed under Title 75, the conservator, rather than the person whose property is subject to the conservatorship, may contract for insurance to protect the property under conservatorship. In the case of a conservatorship over the person or property of a person under 16 years of age, the conservator may invest funds of the estate in life or accident and health insurance or annuity contracts, but only with the approval of the court having jurisdiction over the conservatorship.

Amended by Chapter 116, 2001 General Session

31A-21-104. Insurable interest and consent -- Scope.

(1) As used in this chapter:

(a) For purposes of this section, "exchange" means an exchange made pursuant to Section 1035, Internal Revenue Code, as may be amended.

(b) "Insurable interest" in a person means the following, including a circumstance described in Subsection (3):

(i) for a person closely related by blood or by law, a substantial interest engendered by love and affection; or

(ii) in the case of a person not described in Subsection (1)(b)(i), a lawful and substantial interest in having the life, health, and bodily safety of the person insured continue.

(c) "Insurable interest" in property or liability means any lawful and substantial economic interest in the nonoccurrence of the event insured against.

(d) "Life settlement" is as defined in Section 31A-36-102.

(2) (a) An insurer may not knowingly provide insurance to a person who does not have or expect to have an insurable interest in the subject of the insurance.

(b) A person may not knowingly procure, directly, by assignment, or otherwise,

an interest in the proceeds of an insurance policy unless that person has or expects to have an insurable interest in the subject of the insurance.

(c) In the case of life insurance, the insurable interest requirements of Subsections (2)(a) and (b):

(i) are satisfied if the requirements are met:

(A) at the effective date of the insurance policy; and

(B) at the time of a later procurement, if any, of an interest in the proceeds of an insurance policy; and

(ii) do not need to be met at the time that proceeds of an insurance policy are payable if the requirements are met at the times specified in Subsection (2)(c)(i).

(d) Except as provided in Subsections (7) and (8), insurance provided in violation of this Subsection (2) is subject to Subsection (6).

(e) A policy holder in a group insurance policy does not need an insurable interest if a certificate holder or a person other than the group policyholder who is specified by the certificate holder is the recipient of the proceeds of the group insurance policy.

(3) The following is a nonexhaustive list of insurable interests:

(a) A person has an unlimited insurable interest in that person's own life and health.

(b) A shareholder, member, or partner has an insurable interest in the life of another shareholder, member, or partner for purposes of an insurance contract that is an integral part of a legitimate buy-sell agreement respecting shares, membership interests, or partnership interests in the business.

(c) (i) A trust has an insurable interest in the subject of the insurance to the extent that all beneficiaries of the trust have an insurable interest.

(ii) A trust violates this section if the trust:

(A) is created to give the appearance of an insurable interest, but an insurable interest does not exist; and

(B) is used to initiate a policy for an investor or other person who has no insurable interest in the insured.

(d) (i) Subject to Subsection (3)(d)(v), an employer or an employer sponsored trust:

(A) has an insurable interest in the lives of the employer's:

(I) directors;

(II) officers;

(III) managers;

(IV) nonmanagement employees; and

(V) retired employees; and

(B) may insure a life listed in Subsection (3)(d)(i)(A):

(I) on an individual or group basis; and

(II) with the written consent of the insured.

(ii) (A) A trustee of a trust established by an employer for the sole benefit of the employer has the same insurable interest in the life and health of any person as does the employer.

(B) Without limiting the general principle in Subsection (3)(d)(ii)(A), a trustee of a trust established by an employer that provides life, health, disability, retirement, or

similar benefits to an individual identified in Subsection (3)(d)(i)(A) has an insurable interest in the life of the individual described in Subsection (3)(d)(i)(A) for whom the benefits are provided.

(iii) (A) For the purpose of exchanging life insurance, an individual described in Subsection (3)(d)(i)(A) includes an individual who was formerly included under Subsection (3)(d)(i)(A) if the life insurance to be exchanged:

(I) is purchased or acquired while the individual is a current director, officer, manager, or employee; and

(II) is exchanged for life insurance in an amount that does not exceed the amount of the insurance being exchanged.

(B) Written consent of an individual described in this Subsection (3)(d)(iii) is not required at the time of the exchange of the life insurance.

(C) This Subsection (3)(d)(iii) shall be interpreted in a manner consistent with Subsection (2)(c).

(iv) (A) If an employer or trustee establishes an insurable interest as provided in this Subsection (3)(d) and all of the employer's business is acquired, purchased, merged into, or otherwise transferred to a subsequent employer, the insurable interest of the original employer or trustee in an individual described in Subsection (3)(d)(i)(A) is automatically transferred to:

(I) the subsequent employer; or

(II) the trustee of a trust established by the subsequent employer for the subsequent employer's sole benefit.

(B) A subsequent employer or a trustee of a trust described in Subsection (3)(d)(iv)(A)(II) may exchange life insurance that is purchased or acquired in an individual described in Subsection (3)(d)(i)(A) by the original employer or trustee without establishing a new insurable interest at the time of the exchange of the insurance.

(v) The extent of an employer's or employer sponsored trust's insurable interest for a nonmanagement or retired employee under Subsection (3)(d)(i) is limited to an amount commensurate with the employer's unfunded liabilities at the time insurance on the nonmanagement or retired employee is procured.

(4) (a) Except as provided in Subsection (5), an insurer may not knowingly issue an individual life or accident and health insurance policy to a person other than the one whose life or health is at risk unless that person:

(i) is 18 years of age or older;

(ii) is not under guardianship under Title 75, Chapter 5, Protection of Persons Under Disability and Their Property; and

(iii) gives written consent to the issuance of the policy.

(b) A person shall express consent:

(i) by signing an application for the insurance with knowledge of the nature of the document; or

(ii) in any other reasonable way.

(c) Insurance provided in violation of this Subsection (4) is subject to Subsection (6).

(5) (a) A life or accident and health insurance policy may be taken out without consent in a circumstance described in this Subsection (5)(a).

(i) A person may obtain insurance on a dependent who does not have legal

capacity.

(ii) A creditor may, at the creditor's expense, obtain insurance on the debtor in an amount reasonably related to the amount of the debt.

(iii) A person may obtain life and accident and health insurance on an immediate family member who is living with or dependent on the person.

(iv) A person may obtain an accident and health insurance policy on others that would merely indemnify the policyholder against expenses the person would be legally or morally obligated to pay.

(v) The commissioner may adopt rules permitting issuance of insurance for a limited term on the life or health of a person serving outside the continental United States who is in the public service of the United States, if the policyholder is related within the second degree by blood or by marriage to the person whose life or health is insured.

(b) Consent may be given by another in a circumstance described in this Subsection (5)(b).

(i) A parent, a person having legal custody of a minor, or a guardian of a person under Title 75, Chapter 5, Protection of Persons Under Disability and Their Property, may consent to the issuance of a policy on a dependent child or on a person under guardianship under Title 75, Chapter 5, Protection of Persons Under Disability and Their Property.

(ii) A grandparent may consent to the issuance of life or accident and health insurance on a grandchild.

(iii) A court of general jurisdiction may give consent to the issuance of a life or accident and health insurance policy on an ex parte application showing facts the court considers sufficient to justify the issuance of that insurance.

(6) (a) An insurance policy is not invalid because:

- (i) the insurance policy is issued or procured in violation of Subsection (2); or
- (ii) consent has not been given.

(b) Notwithstanding Subsection (6)(a), a court with appropriate jurisdiction may:

- (i) order the proceeds to be paid to some person who is equitably entitled to the proceeds, other than the one to whom the policy is designated to be payable; or
- (ii) create a constructive trust in the proceeds or a part of the proceeds on behalf of a person who is equitably entitled to the proceeds, subject to all the valid terms and conditions of the policy other than those relating to insurable interest or consent.

(7) This section does not prevent an organization described under Section 501(c)(3), (e), or (f), Internal Revenue Code, as amended, and the regulations made under this section, and which is regulated under Title 13, Chapter 22, Charitable Solicitations Act, from soliciting and procuring, by assignment or designation as beneficiary, a gift or assignment of an interest in life insurance on the life of the donor or assignor or from enforcing payment of proceeds from that interest.

(8) (a) Subsection (8)(b) applies if:

- (i) an insurance policy is transferred pursuant to a life settlement in accordance with Chapter 36, Life Settlements Act; and
- (ii) before the transfer described in Subsection (8)(a)(i) the insurable interest requirements of Subsection (2)(c)(i) are met for the insurance policy.

(b) An insurance policy described in Subsection (8)(a) is not subject to

Subsection (6)(b) and nothing in this section prevents:

(i) an owner of life insurance, whether or not the owner is also the subject of the insurance, from entering into a life settlement;

(ii) a life settlement producer from soliciting a person to enter into a life settlement;

(iii) a person from enforcing payment of proceeds from the interest obtained under a life settlement; or

(iv) the execution:

(A) of any of the following with respect to the death benefit or ownership of any portion of a settled policy as provided for in Section 31A-36-109:

(I) an assignment;

(II) a sale;

(III) a transfer;

(IV) a devise; or

(V) a bequest; and

(B) by any of the following:

(I) a life settlement provider;

(II) a life settlement purchaser;

(III) a financing entity;

(IV) a related provider trust;

(V) a special purpose entity;

(VI) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A; or

(VII) an accredited investor as defined in Regulation D, Rule 501, 17 C.F.R. Sec. 230.501.

(9) (a) The insurable interests described in this section:

(i) are not exclusive;

(ii) are cumulative of an insurable interest that is not expressly included in this section but exists in common law; and

(iii) are not in lieu of an insurable interest that is not expressly included in this section but exists in common law.

(b) The inclusion of an insurable interest in this section may not be considered to be excluding another insurable interest that is similar to the insurable interest included in this section.

(c) (i) The recognition of an insurable interest in this section by Chapter 89, Laws of Utah 2007, does not imply or create a presumption that the insurable interest did not exist before April 30, 2007.

(ii) An insurable interest shall be presumed with respect to a life insurance policy issued before April 30, 2007 to a person whose insurable interest is recognized in this section by Chapter 89, Laws of Utah 2007.

Amended by Chapter 355, 2009 General Session

31A-21-105. Representations, warranties, and conditions.

(1) (a) No statement, representation, or warranty made by any person representing the insurer in the negotiation for an individual or franchise insurance

contract affects the insurer's obligations under the policy unless it is stated in the policy or in a written application signed by the applicant. No person, except the applicant or another by his written consent, may alter the application, except for administrative purposes in a way which is clearly not ascribable to the applicant.

(b) No statement, representation, or warranty made by or on behalf of a particular certificate holder under a group policy affects the insurer's obligations under the certificate unless it is stated in the certificate or in a written document signed by the certificate holder, and a copy of it is supplied to the certificate holder.

(c) The policyholder, his assignee, the loss payee or mortgagee or lienholder under property insurance, and any person whose life or health is insured under a policy may request, in writing, from the company a copy of the application, if he did not receive the policy or a copy of it, or if the policy has been reinstated or renewed without the attachment of a copy of the original application. If the insurer does not deliver or mail a copy as requested within 30 days after receipt of the request by the insurer or its agent, or in the case of a group policy certificate holder, does not inform that person within the same period how he may inspect the policy or a copy of it and application or enrollment card or a copy of it during normal business hours at a place reasonably convenient to the certificate holder, nothing in the application or enrollment card affects the insurer's obligations under the policy to the person making the request. Each person whose life or health is insured under a group policy has the same right to request a copy of any document under Subsection (1)(b).

(2) Except as provided in Subsection (5), no misrepresentation or breach of an affirmative warranty affects the insurer's obligations under the policy unless:

(a) the insurer relies on it and it is either material or is made with intent to deceive; or

(b) the fact misrepresented or falsely warranted contributes to the loss.

(3) No failure of a condition prior to the loss and no breach of a promissory warranty affects the insurer's obligations under the policy unless it exists at the time of the loss and either increases the risk at the time of the loss or contributes to the loss. This Subsection (3) does not apply to failure to tender payment of premium.

(4) Nondisclosure of information not requested by the insurer is not a defense to an action against the insurer. Failure to correct within a reasonable time any representation that becomes incorrect because of changes in circumstances is misrepresentation, not nondisclosure.

(5) If after issuance of a policy the insurer acquires knowledge of sufficient facts to constitute a general defense to all claims under the policy, the defense is only available if the insurer notifies the insured within 60 days after acquiring the knowledge of its intention to defend against a claim if one should arise, or within 120 days if the insurer considers it necessary to secure additional medical information and is actively seeking the information at the end of the 60 days. The insurer and insured may mutually agree to a policy rider in order to continue the policy in force with exceptions or modifications. For purposes of this Subsection (5), an insurer has acquired knowledge only if the information alleged to give rise to the knowledge was disclosed to the insurer or its agent in connection with communications or investigations associated with the insurance policy under which the subject claim arises.

(6) (a) An insurer that offers coverage to a small employer group as required by

Pub. L. No. 104-191, 110 Stat. 1979, Sec. 2711(a), may not rescind a policy or individual certificate holder based on application misrepresentation unless the insurer would not have been required to issue the coverage in the absence of the misrepresentation.

(b) Subsection (6)(a) does not prevent an insurer from correcting rates if:

(i) in the absence of misrepresentation a different rate would have been required; and

(ii) the corrected rates are in compliance with Section 31A-30-106.

(7) No trivial or transitory breach of or noncompliance with any provision of this chapter is a basis for avoiding an insurance contract.

Amended by Chapter 131, 2003 General Session

31A-21-106. Incorporation by reference.

(1) (a) Except as provided in Subsection (1)(b), an insurance policy may not contain any agreement or incorporate any provision not fully set forth in the policy or in an application or other document attached to and made a part of the policy at the time of its delivery, unless the policy, application, or agreement accurately reflects the terms of the incorporated agreement, provision, or attached document.

(b) (i) A policy may by reference incorporate rate schedules and classifications of risks and short-rate tables filed with the commissioner.

(ii) By rule or order, the commissioner may authorize incorporation by reference of provisions for:

(A) administrative arrangements;

(B) premium schedules; and

(C) payment procedures for complex contracts.

(c) (i) A policy of title insurance insuring the mortgage or deed of trust of an institutional lender may, if requested by an institutional lender, incorporate by reference generally applicable policy terms that are contained in a specifically identified policy that has been filed with the commissioner.

(ii) As used in Subsection (1)(c)(i), "institutional lender" means a person that regularly engages in the business of making loans secured by real estate.

(d) A policy may incorporate by reference the following by citing in the policy:

(i) a federal law or regulation;

(ii) a state law or rule; or

(iii) a public directive of a federal or state agency.

(2) A purported modification of a contract during the term of the policy may not affect the obligations of a party to the contract:

(a) unless the modification is:

(i) in writing; and

(ii) agreed to by the party against whose interest the modification operates; and

(b) except:

(i) as provided in:

(A) Subsection (3) or (4);

(B) Subsection 31A-8-402.3(9);

(C) Subsection 31A-22-721(10); or

- (D) Subsection 31A-30-107(8); or
- (ii) as otherwise mandated by law.
- (3) Subsection (2) does not prevent a change in coverage under group contracts resulting from:
 - (a) provisions of an employer eligibility rule;
 - (b) the terms of a collective bargaining agreement; or
 - (c) provisions in federal Employee Retirement Income Security Act plan documents.
- (4) Subsection (2) does not prevent a premium increase at any renewal date that is applicable uniformly to all comparable persons.

Amended by Chapter 252, 2003 General Session

31A-21-107. Contract rights under noncomplying policies.

- (1) Except as otherwise specifically provided by this title, a policy is enforceable against the insurer according to its terms, even if it exceeds the authority of the insurer.
- (2) Any insurance policy, rider, or endorsement issued after July 1, 1986, and which is otherwise valid, which contains any condition or provision not in compliance with the requirements of this title, is not rendered invalid by this title. However, those conditions and provisions shall be construed and applied as if the policy, rider, or endorsement was in full compliance with this title.
- (3) Upon written request of the policyholder or an insured whose rights under the policy are continuing and not transitory, an insurer shall reform and reissue or amend by a clearly stated rider its written policy to comply with the requirements of the law existing at the date of issuance of the policy. Subject to this section and Section 31A-21-102, a person seeking to reform a written insurance agreement by complaint or petition to a judicial authority shall show by clear and convincing evidence the existence of facts establishing the reformation.

Amended by Chapter 204, 1986 General Session

31A-21-108. Subrogation actions.

Subrogation actions may be brought by the insurer in the name of its insured.

Enacted by Chapter 204, 1986 General Session

31A-21-109. Debt cancellation agreements and debt suspension agreements.

- (1) As used in this section:
 - (a) "Debt cancellation agreement" means a contract between a lender and a borrower where the lender, for a separately stated consideration, agrees to waive all or part of the debt in the event of a fortuitous event such as death, disability, or the destruction of the lender's collateral.
 - (b) "Debt suspension agreement" means a contract between a lender and a borrower where the lender, for a separately stated consideration, agrees to suspend scheduled installment payments for an agreed period of time in the event of a:

- (i) fortuitous event such as involuntary unemployment or accident; or
 - (ii) fortuitous condition such as sickness.
 - (c) "Guaranteed asset protection waiver" is as defined in Section 31A-6b-102.
 - (d) "Institution" means:
 - (i) a bank as defined in Section 7-1-103;
 - (ii) a credit union as defined in Section 7-1-103;
 - (iii) an industrial bank as defined in Section 7-1-103; or
 - (iv) a savings and loan association as defined in Section 7-1-103.
 - (e) "Regulate the issuance" includes regulation of the following with respect to a debt cancellation agreement or a debt suspension agreement:
 - (i) terms;
 - (ii) conditions;
 - (iii) rates;
 - (iv) forms; and
 - (v) claims.
 - (f) "Subsidiary" is as defined in Section 7-1-103.
- (2) Except as provided in Subsection (6), the commissioner has sole jurisdiction over the regulation of a debt cancellation agreement or debt suspension agreement.
- (3) Subject to this section, the commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- (a) authorize an insurer to issue:
 - (i) a debt cancellation agreement; or
 - (ii) a debt suspension agreement; and
 - (b) regulate the issuance of:
 - (i) a debt cancellation agreement; or
 - (ii) a debt suspension agreement.
- (4) Except as provided in Subsection (6), a debt cancellation agreement or a debt suspension agreement may be issued only by an insurer authorized to issue a debt cancellation agreement or debt suspension agreement under this section.
- (5) (a) The rules promulgated by the commissioner under this section shall regulate the issuance of a debt cancellation agreement or debt suspension agreement according to the functional insurance equivalent of each type of debt cancellation agreement or debt suspension agreement.
- (b) Except as provided in Subsection (5)(c), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may by rule determine the functional insurance equivalent of each type of debt cancellation agreement or debt suspension agreement.
- (c) Notwithstanding Subsection (5)(b), the functional insurance equivalent of a debt cancellation agreement that provides for the cancellation of indebtedness at death is credit life insurance.
- (6) Notwithstanding the other provisions of this section, the issuance of a debt cancellation agreement or a debt suspension agreement by an institution or a subsidiary of an institution is:
- (a) not subject to this section; and
 - (b) subject to the jurisdiction of the primary regulator of:
 - (i) the institution; or

- (ii) the subsidiary of an institution.
- (7) This section does not apply to a guaranteed asset protection waiver.

Amended by Chapter 274, 2010 General Session

31A-21-110. Prohibition against certain use of Social Security number -- Exceptions -- Applicability of section.

- (1) As used in this section "publicly display or publicly post" means to intentionally communicate or otherwise make available to the general public.
- (2) An insurer not subject to Section 31A-22-634 may not do any of the following:
 - (a) publicly display or publicly post in any manner an individual's Social Security number; or
 - (b) print an individual's Social Security number on any card required for the individual to access products or services provided or covered by the insurer.
- (3) This section does not prevent:
 - (a) the collection, use, or release of a Social Security number as required by state or federal law;
 - (b) the use of a Social Security number for internal verification or administrative purposes; or
 - (c) the release of a Social Security number:
 - (i) for claims administration purposes; or
 - (ii) as part of the verification, eligibility, or payment process.
- (4) (a) An insurer shall comply with this section by July 1, 2005.
- (b) An insurer may obtain an extension for compliance with this section in accordance with this Subsection (4)(b).
 - (i) The request for extension shall:
 - (A) be in writing to the department prior to July 1, 2005; and
 - (B) provide an explanation as to why the insurer cannot comply.
 - (ii) The commissioner shall grant a request for extension:
 - (A) for a period of time not to exceed March 1, 2006; and
 - (B) if the commissioner finds that the explanation provided under Subsection (4)(b)(i) is a reasonable explanation.

Enacted by Chapter 2, 2004 General Session

31A-21-111. Insurers to follow terms of policy.

Unless otherwise provided by this title, an insurer shall follow the terms of an insurance policy issued or assumed by the insurer.

Enacted by Chapter 197, 2006 General Session

31A-21-112. Language other than English.

- (1) An insurer may conduct a transaction in a language other than English through an employee or agent acting as interpreter or through an interpreter provided by the customer.

(2) An insurer may provide a customer an insurance policy, endorsement, rider, or explanatory or advertising material in a language other than English. If there is a dispute or complaint regarding the insurance policy, endorsement, rider, or explanatory or advertising material, the English language version of the insurance coverage shall control the resolution of the dispute or complaint.

(3) A non-English language policy delivered or issued for delivery in this state is considered to be in compliance with this title if the insurer certifies that the policy is translated from an English language policy that complies with this title.

(4) If an insurance policy, endorsement, or rider is provided in a language other than English, it shall be accompanied by:

- (a) the corresponding English language version; and
- (b) a disclaimer in both English and the other language that states that the foreign language version is provided only as an accommodation or courtesy to the customer and the English language version shall control the resolution of any dispute or complaint.

Enacted by Chapter 443, 2013 General Session

31A-21-201. Filing of forms.

(1) (a) Except as exempted under Subsections 31A-21-101(2) through (6), a form may not be used, sold, or offered for sale until the form is filed with the commissioner.

(b) A form is considered filed with the commissioner when the commissioner receives:

- (i) the form;
- (ii) the applicable filing fee as prescribed under Section 31A-3-103; and
- (iii) the applicable transmittal forms as required by the commissioner.

(2) In filing a form for use in this state the insurer is responsible for assuring that the form is in compliance with this title and rules adopted by the commissioner.

(3) (a) The commissioner may prohibit the use of a form at any time upon a finding that:

- (i) the form:
 - (A) is inequitable;
 - (B) is unfairly discriminatory;
 - (C) is misleading;
 - (D) is deceptive;
 - (E) is obscure;
 - (F) is unfair;
 - (G) encourages misrepresentation; or
 - (H) is not in the public interest;
- (ii) the form provides benefits or contains another provision that endangers the solidity of the insurer;
- (iii) except an application required by Section 31A-22-635, the form is an insurance policy or application for an insurance policy that fails to conspicuously, as defined by rule, provide:
 - (A) the exact name of the insurer;

(B) the state of domicile of the insurer filing the insurance policy or application for the insurance policy; and

(C) for a life insurance and annuity insurance policy only, the address of the administrative office of the insurer filing the insurance policy or application for the insurance policy;

(iv) the form violates a statute or a rule adopted by the commissioner; or

(v) the form is otherwise contrary to law.

(b) Subsection (3)(a)(iii) does not apply to an endorsement to an insurance policy.

(c) (i) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may order that, on or before a date not less than 15 days after the order, the use of the form be discontinued.

(ii) Once use of a form is prohibited, the form may not be used until appropriate changes are filed with and reviewed by the commissioner.

(iii) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may require the insurer to disclose contract deficiencies to the existing policyholders.

(d) If the commissioner prohibits use of a form under this Subsection (3), the prohibition shall:

(i) be in writing;

(ii) constitute an order; and

(iii) state the reasons for the prohibition.

(4) (a) If, after a hearing, the commissioner determines that it is in the public interest, the commissioner may require by rule or order that a form be subject to the commissioner's approval before its use.

(b) The rule or order described in Subsection (4)(a) shall prescribe the filing procedures for a form if the procedures are different from the procedures stated in this section.

(c) The type of form that under Subsection (4)(a) the commissioner may require approval of before use includes:

(i) a form for a particular class of insurance;

(ii) a form for a specific line of insurance;

(iii) a specific type of form; or

(iv) a form for a specific market segment.

(5) (a) An insurer shall maintain a complete and accurate record of the following for the time period described in Subsection (5)(b):

(i) a form:

(A) filed under this section for use; or

(B) that is in use; and

(ii) a document filed under this section with a form described in Subsection (5)(a)(i).

(b) The insurer shall maintain a record required under Subsection (5)(a) for the balance of the current year, plus five years from:

(i) the last day on which the form is used; or

(ii) the last day an insurance policy that is issued using the form is in effect.

Amended by Chapter 10, 2010 General Session

31A-21-202. Explicit approval required.

(1) The following clauses are disapproved unless the commissioner gives them explicit approval:

(a) clauses requiring more expeditious notice of loss or proof of loss than is required by Section 31A-21-312 or rules adopted under that section; and

(b) a schedule of reinstatement fees under Section 31A-22-608, if made a part of the policy. This type of schedule need not be included in the policy but may be given approval as a separate document specifically made applicable to particular classes of policies and incorporated in the policy by reference.

(2) If an insurer fails to obtain explicit approval from the commissioner for the clauses specified in Subsection (1), the clauses are void.

Amended by Chapter 204, 1986 General Session

31A-21-203. Authorized clauses for insurance forms.

(1) The commissioner may not adopt mandatory uniform clauses. However, the commissioner may adopt authorized clauses by rule upon a finding that:

(a) price or coverage competition is ineffective because diversity in language or content makes comparison difficult;

(b) provision of language, content, or form of specific clauses is necessary to provide certainty of meaning to those clauses;

(c) regulation of policy forms would be more effective or litigation would be substantially reduced if there were increased standardization of certain clauses; or

(d) reasonable minimum standards of insurance protection are needed for policies to serve a useful purpose.

(2) Any rule creating an authorized clause may prescribe that to be treated as an authorized clause there shall be verbatim or substantial adherence to prescribed language, that certain standards or criteria shall be met, or that certain drafting principles shall be followed. The rules may also permit liberalization of prescribed language. A rule may prescribe verbatim adherence only after the commissioner has made a finding that substantial adherence to the prescribed language is not sufficient and that liberalization of prescribed language will frustrate the purposes of the prescription. If an insurer uses authorized clauses as part of filed forms, the commissioner may only disapprove those clauses under Section 31A-21-201 upon a finding that improper combination of clauses makes them violate the criteria of Section 31A-21-201.

Enacted by Chapter 242, 1985 General Session

31A-21-301. Clauses required to be in a prominent position.

(1) The following portions of insurance policies shall appear conspicuously in the policy:

(a) as required by Subsection 31A-21-201(3)(a)(iii):

(i) the exact name of the insurer;

- (ii) the state of domicile of the insurer; and
 - (iii) for life insurance and annuity policies only, the address of the administrative office of the insurer;
 - (b) information that two or more insurers under Subsection (1)(a) undertake only several liability, as required by Section 31A-21-306;
 - (c) if a policy is assessable, a statement of that;
 - (d) a statement that benefits are variable, as required by Section 31A-22-411; however, the methods of calculation need not be in a prominent position;
 - (e) the right to return a life or accident and health insurance policy under Sections 31A-22-423 and 31A-22-606; and
 - (f) the beginning and ending dates of insurance protection.
- (2) Each clause listed in Subsection (1) shall be displayed conspicuously and separately from any other clause.

Amended by Chapter 10, 2010 General Session

31A-21-302. Premiums.

(1) Subject to Section 31A-21-310 and Subsection 31A-21-106(1), the policy shall clearly state the amount of the total premium or shall explain in detail how it is calculated. Any fee, charge, or other consideration that is not part of the premium shall be disclosed and explained in writing to the insured. The disclosure and explanation shall be clearly stated either on the policy, or on the insurer's billing to the insured. The premium need not be contained in a certificate issued under a group policy. This Subsection (1) does not preclude premium adjustments or changes upon the renewal or endorsement of an existing policy. However, the renewal or endorsement notice shall contain or be accompanied by a statement of the renewal or endorsement premium or credit.

(2) Except as provided in Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, no person may charge or receive any consideration for the insurance policy which is not stated in Subsection (1).

(3) No person may knowingly collect any excessive amount as a premium or any amount for insurance which is not in the course of processing. Any amount unknowingly collected shall be returned immediately on learning of the mistake. Prepayment of premiums pursuant to the policy is not an excessive collection. Insurance is in the course of processing if an application has been made for it which is being considered by the insurer, even though it has not yet been accepted or rejected.

Amended by Chapter 298, 2003 General Session

31A-21-303. Cancellation, issuance, renewal.

(1) (a) Except as otherwise provided in this section, other statutes, or by rule under Subsection (1)(c), this section applies to all policies of insurance:

- (i) except for:
 - (A) life insurance;
 - (B) accident and health insurance; and
 - (C) annuities; and

(ii) if the policies of insurance are issued on forms that are subject to filing under Subsection 31A-21-201(1).

(b) A policy may provide terms more favorable to insureds than this section requires.

(c) The commissioner may by rule totally or partially exempt from this section classes of insurance policies in which the insureds do not need protection against arbitrary or unannounced termination.

(d) The rights provided by this section are in addition to and do not prejudice any other rights the insureds may have at common law or under other statutes.

(2) (a) As used in this Subsection (2), "grounds" means:

(i) material misrepresentation;

(ii) substantial change in the risk assumed, unless the insurer should reasonably have foreseen the change or contemplated the risk when entering into the contract;

(iii) substantial breaches of contractual duties, conditions, or warranties;

(iv) attainment of the age specified as the terminal age for coverage, in which case the insurer may cancel by notice under Subsection (2)(c), accompanied by a tender of proportional return of premium; or

(v) in the case of motor vehicle insurance, revocation or suspension of the driver's license of:

(A) the named insured; or

(B) any other person who customarily drives the motor vehicle.

(b) (i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection (2)(b)(ii) are met, an insurance policy may not be canceled by the insurer before the earlier of:

(A) the expiration of the agreed term; or

(B) one year from the effective date of the policy or renewal.

(ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the insurer for:

(A) nonpayment of a premium when due; or

(B) on grounds defined in Subsection (2)(a).

(c) (i) The cancellation provided by Subsection (2)(b), except cancellation for nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class mailing of a written notice to the policyholder.

(ii) Cancellation for nonpayment of premium is effective no sooner than 10 days after delivery or first class mailing of a written notice to the policyholder.

(d) (i) Notice of cancellation for nonpayment of premium shall include a statement of the reason for cancellation.

(ii) Subsection (7) applies to the notice required for grounds of cancellation other than nonpayment of premium.

(e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not been previously renewed if the contract has been in effect less than 60 days when the written notice of cancellation is mailed or delivered.

(ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10 days after the delivery to the insured of a written notice of cancellation.

(iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage prepaid, to the insured at the insured's last-known address, delivery is

considered accomplished after the passing, since the mailing date, of the mailing time specified in the Utah Rules of Civil Procedure.

(iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the procedures described in Subsection (7).

(3) A policy may be issued for a term longer than one year or for an indefinite term if the policy includes a clause providing for cancellation by the insurer by giving notice as provided in Subsection (4)(b)(i) 30 days prior to any anniversary date.

(4) (a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the policy renewed:

(i) on the terms then being applied by the insurer to similar risks; and

(ii) (A) for an additional period of time equivalent to the expiring term if the agreed term is one year or less; or

(B) for one year if the agreed term is longer than one year.

(b) Except as provided in Subsections (4)(c) and (5), the right to renewal under Subsection (4)(a) is extinguished if:

(i) at least 30 days prior to the policy expiration or anniversary date a notice of intention not to renew the policy beyond the agreed expiration or anniversary date is delivered or sent by first-class mail by the insurer to the policyholder at the policyholder's last-known address;

(ii) not more than 45 nor less than 14 days prior to the due date of the renewal premium, the insurer delivers or sends by first-class mail a notice to the policyholder at the policyholder's last-known address, clearly stating:

(A) the renewal premium;

(B) how the renewal premium may be paid; and

(C) that failure to pay the renewal premium by the due date extinguishes the policyholder's right to renewal;

(iii) the policyholder has:

(A) accepted replacement coverage; or

(B) requested or agreed to nonrenewal; or

(iv) the policy is expressly designated as nonrenewable.

(c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail to renew an insurance policy as a result of a telephone call or other inquiry that:

(i) references a policy coverage; and

(ii) does not result in the insured requesting payment of a claim.

(d) Failure to renew under this Subsection (4) is subject to Subsection (5).

(5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal lines insurance policies solely on the basis of:

(a) in the case of a motor vehicle insurance policy:

(i) a claim from the insured that:

(A) results from an accident in which:

(I) the insured is not at fault; and

(II) the driver of the motor vehicle that is covered by the motor vehicle insurance policy is 21 years of age or older; and

(B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a 36-month period;

(ii) a single traffic violation by an insured that:

- (A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;
- (B) is not in excess of 10 miles per hour over the speed limit;
- (C) is not a traffic violation under:
 - (I) Section 41-6a-601;
 - (II) Section 41-6a-604; or
 - (III) Section 41-6a-605;
- (D) is not a violation by an insured driver who is younger than 21 years of age;

and

(E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A) through (D) within a 36-month period; or

(iii) a claim for damage that:

(A) results solely from:

- (I) wind;
- (II) hail;
- (III) lightning; or
- (IV) an earthquake;

(B) is not preventable by the exercise of reasonable care; and

(C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B) within a 36-month period; and

(b) in the case of a homeowner's insurance policy, a claim by the insured that is for damage that:

(i) results solely from:

- (A) wind;
- (B) hail; or
- (C) lightning;

(ii) is not preventable by the exercise of reasonable care; and

(iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a 36-month period.

(6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the new terms or rates at least 30 days prior to the expiration date of the prior policy.

(ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i) to the policyholder, the new terms or rates do not take effect until 30 days after the notice is delivered or sent by first-class mail, in which case the policyholder may elect to cancel the renewal policy at any time during the 30-day period.

(iii) Return premiums or additional premium charges shall be calculated proportionately on the basis that the old rates apply.

(b) Subsection (6)(a) does not apply if the only change in terms that is adverse to the policyholder is:

(i) a rate increase generally applicable to the class of business to which the policy belongs;

(ii) a rate increase resulting from a classification change based on the altered nature or extent of the risk insured against; or

(iii) a policy form change made to make the form consistent with Utah law.

(7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state with reasonable precision the facts on which the insurer's decision is based, the insurer shall send by first-class mail or deliver that information within 10 working days after receipt of a written request by the policyholder.

(b) A notice under Subsection (2)(c) is not effective unless it contains information about the policyholder's right to make the request.

(8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal or cancellation to a lienholder if the insurer has been provided the name and mailing address of the lienholder.

(b) The notice described in Subsection (8)(a) shall be provided to the lienholder by first class mail or, if agreed by the parties, any electronic means of communication.

(c) A lienholder shall provide a current physical address of notification or an electronic address of notification to an insurer that is required to make a notification under Subsection (8)(a).

(9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided by the insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless it contains instructions to the policyholder for applying for insurance through the available risk-sharing plan.

(10) There is no liability on the part of, and no cause of action against, any insurer, its authorized representatives, agents, employees, or any other person furnishing to the insurer information relating to the reasons for cancellation or nonrenewal or for any statement made or information given by them in complying or enabling the insurer to comply with this section unless actual malice is proved by clear and convincing evidence.

(11) This section does not alter any common law right of contract rescission for material misrepresentation.

Amended by Chapter 190, 2010 General Session

31A-21-304. Special cancellation provisions.

Whether or not Section 31A-21-303 is also applicable:

(1) Section 31A-21-305 applies to cancellation on request of a premium finance company;

(2) Section 70C-6-304 applies to cancellation upon request of a creditor; and

(3) Sections 41-12a-404 and 41-12a-405 apply to the cancellation or other termination of insurance coverage or of a surety bond after the insurer or surety has provided a certificate of insurance or suretyship to the Department of Public Safety.

Amended by Chapter 91, 1987 General Session

31A-21-305. Cancellation upon request of a premium finance company.

(1) As used in this section:

(a) "Insurance premium finance company" means a person engaged in the

business of entering into premium finance agreements.

(b) "Premium finance agreement" means an agreement by which an insured or prospective insured promises to pay to an insurance premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance producer in payment of premiums on an insurance policy, together with a service charge, an interest charge, or both.

(2) When a premium finance agreement contains a power of attorney or other authority enabling the insurance premium finance company to cancel any insurance policy listed in the agreement, the following applies:

(a) Not less than 10 days' written notice of the intent of the insurance premium finance company to order cancellation of the insurance policy, unless the policyholder's default is cured prior to the date stated in the notice, shall be delivered or mailed first-class to the policyholder. The insurance producer indicated on the premium finance agreement shall also be given the same notice.

(b) Pursuant to the power of attorney or other authority, evidence of which is delivered to the insurer, the insurance premium finance company may order cancellation on behalf of the insured. This cancellation shall be effected by mailing to the insurer a written notice stating when the cancellation is effective. The insurance policy shall be cancelled as if the notice of cancellation had been given by the insured, but without requiring the return of the insurance policy. The insurance premium finance company shall also send a copy of the same notice to the insured at his last known address and to the insurance producer indicated on the premium finance agreement.

(c) Where statutory, rule, or contractual restrictions provide that the insurance policy may not be cancelled unless notice is given to a governmental agency, mortgagee, or other third party, the insurer shall give the prescribed notice on behalf of itself or the insured to that governmental agency, mortgagee, or other third party within a reasonable time after the day it receives the notice of cancellation from the premium finance company. When any statutory, rule, or contractual restrictions require the continuation of insurance beyond the effective date of cancellation specified by the premium finance company, the insurance is limited to the coverage required by those restrictions and to the persons those restrictions are designed to protect.

(d) Whenever a financed insurance policy is cancelled, the insurer shall return any unearned premiums due under the insurance policy to the insurance premium finance company for the account of the insured, and this action by the insurer satisfies the insurer's obligations under the insurance policy which relate to the return of unearned premiums. If the crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund that excess to the insured if it exceeds \$5.

(3) No filing of the premium finance agreement or recording of a premium finance transaction is necessary to perfect the validity of the agreement as a secured transaction as against creditors, subsequent purchasers, pledgees, encumbrancers, successors, or assigns.

Amended by Chapter 298, 2003 General Session

31A-21-306. Policies or surety bonds jointly issued.

Two or more insurers may together issue a policy or surety bond. Their liability shall be joint and several with respect to the policy or bond. The policy or bond shall state the proportion or amount of premium to be paid to each insurer and, as between the issuing insurers, the type and the proportion or amount of liability each insurer assumes. Service of process on any of the insurers is service on all of them.

Amended by Chapter 204, 1986 General Session

31A-21-307. Other insurance.

(1) When two or more policies promise to indemnify an insured against the same loss without intending cumulative coverage, no "other insurance" provisions of the policies may reduce the aggregate protection of the insured below the lesser of the actual insured loss suffered by the insured and the maximum indemnification promised by any policy without regard to any "other insurance" provision.

(2) Subject to Subsection (1), the policies may by their terms define the extent to which each insurance is primary and each is excess, but if the "other insurance" terms of the policies are inconsistent, there is joint and several liability to the insured on any coverage which overlaps and which has inconsistent terms. Subsequent settlement among the insurers does not alter any rights of the insured. The commissioner may adopt rules consistent with this section concerning "other insurance."

(3) This section does not apply to accident and health insurance policies. Refer to Section 31A-22-619 for the coordination of accident and health benefits.

Amended by Chapter 116, 2001 General Session

31A-21-308. Limitations on loss to be borne by insurer.

(1) An insurance policy indemnifying an insured against loss may by clear language limit the part of the loss to be paid by the insurer to a specified or determinable maximum amount, to loss in excess of a specified or determinable amount, to a specified proportion of the loss which may vary with the amount of the loss, or to any combination of these methods. If the policy covers various risks, different limitations may be provided separately for each risk, if the policy clearly states that.

(2) A policy indemnifying an insured against loss of or damage to property may limit the part of the loss to be paid by the insurer to a percentage of the total loss that corresponds to the ratio of the insured sum to a specified percentage of the value of the insured property.

Enacted by Chapter 242, 1985 General Session

31A-21-309. Nonwaiver clause.

An insurer may insert a provision in any insurance policy that no change in the policy is valid unless approved by an executive officer of the insurer, or unless the approval is endorsed on the policy or attached to it, or both, and that no agent has authority to change the policy or waive any of its provisions. This does not preclude a person claiming a right under the policy from relying on waiver or estoppel in an

appropriate case.

Enacted by Chapter 242, 1985 General Session

31A-21-310. Dividends on policies.

(1) Section 31A-22-418 applies to life insurance and annuities.

(2) Any insurer may distribute a portion of surplus attributable to policies other than life insurance or annuities, in amounts and with classifications the board of directors determines to be fair and reasonable. This distribution may not be contingent on the renewal of any policy or of premium payments unless the policy stated that limitation when it was written. A schedule explaining the basis for the distribution shall be filed with the commissioner prior to the distribution. The schedule shall be kept confidential by the commissioner unless he finds that the interests of insureds and the public require that it be made public.

(3) Any insurer may distribute surplus to any class of policyholder, even if their policies do not provide for it. A schedule explaining the basis for the distribution shall be filed with the commissioner under Subsection (2) at least 30 days prior to the distribution. The commissioner shall disallow any distribution which is materially unfair to other policyholders or which would place the insurer in a financially hazardous condition.

(4) It is permissible to provide an indivisible dividend to classes of policyholders having more than one type of policy, including a combination of life or annuities with other types of insurance.

Enacted by Chapter 242, 1985 General Session

31A-21-311. Group and blanket insurance.

(1) (a) (i) Except under Subsection (1)(d), an insurer issuing a group insurance policy other than a blanket insurance policy shall, as soon as practicable after the coverage is effective, provide a certificate for each member of the insured group, except that only one certificate need be provided for the members of a family unit.

(ii) The certificate required by this Subsection (1) shall:

(A) provide the exact name of the insurer;

(B) state the state of domicile of the insurer; and

(C) contain a summary of the essential features of the insurance coverage, including:

(I) any rights of conversion to an individual policy;

(II) in the case of group life insurance, any continuation of coverage during total disability; and

(III) in the case of group life insurance, the incontestability provision.

(iii) Upon receiving a written request, the insurer shall inform any insured how the insured may inspect, during normal business hours at a place reasonably convenient to the insured:

(A) a copy of the policy; or

(B) a summary of the policy containing all the details that are relevant to the certificate holder.

(b) The commissioner may by rule impose a requirement similar to Subsection (1)(a) on any class of blanket insurance policies for which the commissioner finds that the group of persons covered is constant enough for that type of action to be practicable and not unreasonably expensive.

(c) (i) A certificate shall be provided in a manner reasonably calculated to bring the certificate to the attention of the certificate holder.

(ii) The insurer may deliver or mail a certificate:

(A) directly to the certificate holders; or

(B) in bulk to the policyholder to transmit to certificate holders.

(iii) An affidavit by the insurer that the insurer mailed the certificates in the usual course of business creates a rebuttable presumption that the insurer has mailed the certificate to:

(A) a certificate holder; or

(B) a policyholder as provided in Subsection (1)(c)(ii)(B).

(d) The commissioner may by rule or order prescribe substitutes for delivery or mailing of certificates that are reasonably calculated to inform a certificate holder of the certificate holder's rights, including:

(i) booklets describing the coverage;

(ii) the posting of notices in the place of business; or

(iii) publication in a house organ.

(2) Unless a certificate or an authorized substitute has been made available to the certificate holder when required by this section, an act or omission forbidden to or required of the certificate holder by the certificate after the coverage has become effective as to the certificate holder, other than intentionally causing the loss insured against or failing to make required contributory premium payments, may not affect the insurer's obligations under the insurance contract.

Amended by Chapter 252, 2003 General Session

31A-21-312. Notice and proof of loss.

(1) Every insurance policy shall provide that:

(a) when notice of loss is required separately from proof of loss, notice given by or on behalf of the insured to any authorized agent of the insurer within this state, with particulars sufficient to identify the policy, is notice to the insurer; and

(b) failure to give any notice or file any proof of loss required by the policy within the time specified in the policy does not invalidate a claim made by the insured, if the insured shows that it was not reasonably possible to give the notice or file the proof of loss within the prescribed time and that notice was given or proof of loss filed as soon as reasonably possible.

(2) Failure to give notice or file proof of loss as required by Subsection (1)(b) does not bar recovery under the policy if the insurer fails to show it was prejudiced by the failure. This subsection may not be construed to extend the statute of limitations applicable under Section 31A-21-313.

(3) The insurer shall, on request, promptly furnish an insured any forms or instructions needed to make a proof of loss.

(4) As an alternative to giving notice directly under Subsection (1)(a), it is a

sufficient service of notice or of proof of loss if a first class postage prepaid envelope addressed to the insurer and containing the proper notice or proof of loss is deposited in any United States post office within the time prescribed.

(5) The commissioner shall adopt rules dealing with notice of loss and proof of loss time limitations under insurance policies. Under Section 31A-21-202, the commissioner's express approval shall be received before any contract clause requiring notice of loss or proof of loss in a manner inconsistent with the rule may be used in an insurance contract.

(6) The acknowledgment by the insurer of the receipt of notice, the furnishing of forms for filing proofs of loss, the acceptance of those proofs, or the investigation of any claim are not alone sufficient to waive any of the rights of the insurer in defense of any claim arising under the insurance policy.

Amended by Chapter 297, 2011 General Session

31A-21-313. Limitation of actions.

(1) An action on a written policy or contract of first party insurance shall be commenced within three years after the inception of the loss.

(2) Except as provided in Subsection (1) or elsewhere in this title, the law applicable to limitation of actions in Title 78B, Chapter 2, Statutes of Limitations, applies to actions on insurance policies.

(3) An insurance policy may not:

(a) limit the time for beginning an action on the policy to a time less than that authorized by statute;

(b) prescribe in what court an action may be brought on the policy; or

(c) provide that no action may be brought, subject to permissible arbitration provisions in contracts.

(4) Unless by verified complaint it is alleged that prejudice to the complainant will arise from a delay in bringing suit against an insurer, which prejudice is other than the delay itself, no action may be brought against an insurer on an insurance policy to compel payment under the policy until the earlier of:

(a) 60 days after proof of loss has been furnished as required under the policy;

(b) waiver by the insurer of proof of loss; or

(c) the insurer's denial of full payment.

(5) The period of limitation is tolled during the period in which the parties conduct an appraisal or arbitration procedure prescribed by the insurance policy, by law, or as agreed to by the parties.

Amended by Chapter 297, 2011 General Session

31A-21-314. Prohibited provisions.

No insurance policy subject to this chapter may contain any provision:

(1) requiring it to be construed according to the laws of another jurisdiction except as necessary to meet the requirements of compulsory insurance laws of other jurisdictions;

(2) depriving Utah courts of jurisdiction over an action against the insurer, except

as provided in permissible arbitration provisions; or

(3) limiting the right of action against the insurer to less than three years from the date the cause of action accrues.

Amended by Chapter 95, 1987 General Session

31A-21-315. Refund of canceled health insurance premiums and Medicare supplement insurance premiums.

(1) As used in this section, "unearned amount of the collected premium" means the amount of the collected premium applicable to the unexpired portion of the time period to which the policy or certificate relates.

(2) If a health insurance policy or a Medicare supplement policy is cancelled for a reason other than a material misrepresentation, the insurer shall refund the unearned amount of the collected premium.

(3) If an insurer cancels a health insurance policy or a Medicare supplement policy because of a material misrepresentation on the application, the insurer shall refund all premiums collected minus claims that have been paid.

Amended by Chapter 156, 2009 General Session

31A-21-316. Electronic notices and documents.

(1) As used in this section:

(a) "Delivered by electronic means" includes:

(i) delivery to an electronic mail address at which a party has consented to receive a notice or document; or

(ii) posting on an electronic network or site accessible by way of the Internet, a mobile application, a computer, a mobile device, a tablet, or any other electronic device, together with separate notice of the posting that is provided by:

(A) electronic mail to the address at which the party has consented to receive notice; or

(B) any other delivery method that has been consented to by the party.

(b) (i) "Party" means a recipient of a notice or document required as part of an insurance transaction.

(ii) "Party" includes an applicant, an insured, or a policyholder.

(2) Subject to Subsection (4), a notice to a party or another document required under applicable law in an insurance transaction or that serves as evidence of insurance coverage may be delivered, stored, and presented by electronic means if it meets the requirements of Title 46, Chapter 4, Uniform Electronic Transactions Act.

(3) Delivery of a notice or document in accordance with this section is considered equivalent to any delivery method required under applicable law.

(4) Subject to Subsection (5), a notice or document may be delivered by electronic means by an insurer to a party under this section if:

(a) the party has affirmatively consented to that method of delivery and has not withdrawn the consent;

(b) the party, before giving consent, is provided with a clear and conspicuous statement informing the party of:

- (i) any right or option of the party to have the notice or document provided or made available in paper or another nonelectronic form;
- (ii) the right of the party to withdraw consent to have a notice or document delivered by electronic means, including:
 - (A) a condition or consequence imposed if consent is withdrawn;
 - (B) when the insurer will make the party's withdrawal effective, during or at the conclusion of the policy term; and
 - (C) the procedure a party is to follow to withdraw consent to have a notice or document delivered by electronic means;
- (iii) whether the party's consent applies:
 - (A) only to the particular transaction as to which the notice or document must be given; or
 - (B) to identified categories of notices or documents that may be delivered by electronic means during the course of the party's relationship with the insured; and
- (iv) the means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means; and
- (c) the party:
 - (i) before giving consent, is provided with a statement of the electronic delivery and retrieval method requirements for access to and retention of a notice or document delivered by electronic means;
 - (ii) consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for a notice or document delivered by electronic means as to which the party has given consent; and
 - (iii) is provided a process to update information needed to contact the party electronically.
- (5) (a) After consent of the party is given and if a change in the electronic delivery or retrieval methods creates a substantial risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies, the insurer shall:
 - (i) provide the party with a statement of:
 - (A) the revised electronic delivery or retrieval methods; and
 - (B) the right of the party to withdraw consent without the imposition of any condition or consequence that was not disclosed under Subsection (4)(b)(ii); and
 - (ii) comply with Subsection (4)(b).
- (b) Failure by an insurer to comply with this Subsection (5) is treated, at the election of the party, as a withdrawal of consent for purposes of this section.
- (c) When an electronic mail address provided by the party to facilitate delivery by electronic means is returned with a message as undeliverable each time electronic delivery is attempted over a period not to exceed two business days, the party is presumed to have withdrawn consent for the purposes of this section.
- (d) (i) An insurer shall file with the department the consent statement described under Subsection (4)(b), which includes conditions or consequences for a party to revoke the party's consent to conduct an insurance transaction, electronically.
- (ii) An insurer shall file the consent statement described in Subsection (5)(d)(i) before the insurer uses the consent statement.

(iii) The insurer shall communicate to the party in accordance with Subsection (4)(b) the conditions or consequences for a party to revoke the party's consent.

(6) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

(7) This section does not affect requirements related to content or timing of any notice or document required under applicable law.

(8) If a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.

(9) The legal effectiveness, validity, or enforceability of a contract or policy of insurance executed by a party may not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with Subsection (4)(c)(ii).

(10) This section does not apply to or affect a notice or document delivered by an insurer in an electronic form before July 1, 2014, to a party who, before July 1, 2014, has consented to receive the notice or document in an electronic form otherwise allowed by law.

(11) If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before July 1, 2014, and pursuant to this section, an insurer intends to deliver an additional notice or document to the party in an electronic form, then before delivering the additional notices or documents electronically, the insurer shall notify the party of:

(a) the notices or documents that may be delivered by electronic means under this section that were not previously delivered electronically; and

(b) the party's right to withdraw consent to have notices or documents delivered by electronic means.

(12) (a) Except as otherwise provided by Section 31A-21-102, if an oral communication or a recording of an oral communication from a party can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as a notice or document delivered by electronic means for purposes of this section.

(b) If a provision of this title or applicable law requires a signature, notice, or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the party authorized to perform those acts, together with all other information required to be included by the provision, is attached to or logically associated with the signature, notice, or document.

(13) This section may not be construed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, P. Law 106-229, as amended.

Enacted by Chapter 77, 2014 General Session

31A-21-401. Scope and construction of part.

This part applies to all mass marketed life or accident and health insurance, notwithstanding Subsection 31A-1-103(3). This part may not be construed to limit the

application of other provisions of this title to insurers effecting mass marketed life or accident and health insurance policies on persons in this state.

Amended by Chapter 116, 2001 General Session

31A-21-402. Definitions.

As used in this part:

(1) "Direct response solicitation" means any offer by an insurer to persons in this state, either directly or through a third party, to effect life or accident and health insurance coverage which enables the individual to apply or enroll for the insurance on the basis of the offer. Direct response solicitation does not include solicitations for insurance through an employee benefit plan exempt from state regulation under preemptive federal law, nor does it include solicitations through the individual's creditor with respect to credit life or credit accident and health insurance.

(2) "Mass marketed life or accident and health insurance" means the insurance under any individual, franchise, group, or blanket policy of life or accident and health insurance which is offered by means of direct response solicitation through a sponsoring organization or through the mails or other mass communications media and under which the person insured pays all or substantially all of the cost of his insurance.

Amended by Chapter 116, 2001 General Session

31A-21-403. Orders terminating effectiveness of policies.

Upon the commissioner's order, no mass marketed life or accident and health insurance issued by an insurer may continue to be effected on persons in this state. The commissioner may issue an order under this section only if the commissioner finds, after a hearing, that the total charges for the insurance to the persons insured are unreasonable in relation to the benefits provided. The commissioner's findings under this section shall be in writing. Orders under this section may direct the insurer to cease effecting the insurance until the total charges for the insurance are found by the commissioner to be reasonable in relation to the benefits provided.

Amended by Chapter 297, 2011 General Session

31A-21-404. Out-of-state insurers.

Any insurer extending mass marketed life or accident and health insurance under a group or blanket policy issued outside of this state to residents of this state shall, with respect to the mass marketed life or accident and health insurance policy:

(1) comply with:

(a) Sections 31A-23a-402, 31A-23a-402.5, and 31A-23a-403; and

(b) Chapter 26, Part 3, Claim Practices; and

(2) upon the commissioner's request, deliver to the commissioner a copy of any mass marketed life or accident and health insurance policy, certificates issued under these policies, and advertising material used in this state in connection with the policy.

Amended by Chapter 62, 2011 General Session

31A-21-501. Definitions.

For purposes of this part:

(1) "Applicant" means:

(a) in the case of an individual life or accident and health policy, the person who seeks to contract for insurance benefits; or

(b) in the case of a group life or accident and health policy, the proposed certificate holder.

(2) "Cohabitant" means an emancipated individual pursuant to Section 15-2-1 or an individual who is 16 years of age or older who:

(a) is or was a spouse of the other party;

(b) is or was living as if a spouse of the other party;

(c) is related by blood or marriage to the other party;

(d) has one or more children in common with the other party; or

(e) resides or has resided in the same residence as the other party.

(3) "Child abuse" means the commission or attempt to commit against a child a criminal offense described in:

(a) Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(b) Title 76, Chapter 5, Part 4, Sexual Offenses;

(c) Section 76-9-702, Lewdness;

(d) Section 76-9-702.1, Sexual battery; or

(e) Section 76-9-702.5, Lewdness involving a child.

(4) "Domestic violence" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another and includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) assault, as described in Section 76-5-102;

(c) criminal homicide, as described in Section 76-5-201;

(d) harassment, as described in Section 76-5-106;

(e) electronic communication harassment, as described in Section 76-9-201;

(f) kidnaping, child kidnaping, or aggravated kidnaping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(g) mayhem, as described in Section 76-5-105;

(h) sexual offenses, as described in Title 76, Chapter 5, Part 4, and Section 76-5b-201;

(i) stalking, as described in Section 76-5-106.5;

(j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(l) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

(m) possession of a deadly weapon with intent to assault, as described in Section 76-10-507; or

(n) discharge of a firearm from a vehicle, near a highway, or in the direction of

any person, building, or vehicle, as described in Section 76-10-508.

(5) "Subject of domestic abuse" means an individual who is, has been, may currently be, or may have been subject to domestic violence or child abuse.

Amended by Chapter 39, 2012 General Session

Amended by Chapter 303, 2012 General Session

31A-21-502. Scope of part.

This part applies to only life and accident and health insurance.

Amended by Chapter 116, 2001 General Session

31A-21-503. Discrimination based on domestic violence or child abuse prohibited.

(1) Except as provided in Subsection (2), an insurer of life or accident and health insurance may not consider whether an insured or applicant is the subject of domestic abuse as a factor to:

- (a) refuse to insure the applicant;
- (b) refuse to continue to insure the insured;
- (c) refuse to renew or reissue a policy to insure the insured or applicant;
- (d) limit the amount, extent, or kind of coverage available to the insured or applicant;
- (e) charge a different rate for coverage to the insured or applicant;
- (f) exclude or limit benefits or coverage under an insurance policy or contract for losses incurred;
- (g) deny a claim; or
- (h) terminate coverage or fail to provide conversion privileges in violation of Section 31A-22-612 under a group accident and health policy for the insured because the coverage was issued in the name of the perpetrator of the domestic violence or abuse.

(2) (a) Notwithstanding Subsection (1), an insurer may underwrite on the basis of the physical or mental condition of an insured or applicant if the underwriting is on the basis of a determination that there is a correlation between the medical or mental condition and a material increase in insurance risk.

(b) For purposes of Subsection (2)(a), the fact that an insured or applicant is a subject of domestic abuse is not a mental or physical condition.

(c) The determination required by Subsection (2)(a) shall be made in conformance with sound actuarial principles.

(d) Within 30 days after receiving an oral or written request from an insured or applicant, an insurer shall disclose in writing:

- (i) the basis of an action permitted under Subsection (2)(a); and
- (ii) if the policy has been issued or modified, the extent the action taken will impact the amount, extent, or kind of coverage or benefits available to the insured.

Amended by Chapter 319, 2013 General Session

31A-21-504. Investigation -- Use of information used -- Disclosure.

(1) An insurer may not ask an insured or applicant or use any other means to determine whether the insured or applicant is the subject of domestic abuse.

(2) If an insured or applicant voluntarily discloses to the insurer or to the insured's or applicant's treating physician that the insured or applicant or a member of the insured's or applicant's household is the subject of domestic abuse, an insurer may not use the information of domestic violence or child abuse in violation of this part.

(3) (a) An insurer may not disclose or transfer information to a third party relating to whether a specifically identifiable insured or applicant is the subject of domestic abuse unless the information:

- (i) is required to be disclosed by the commissioner;
- (ii) is required to be disclosed by a court of competent jurisdiction;
- (iii) is necessary for the direct provision of health care services;
- (iv) is permitted to be disclosed to an authorized agency under Chapter 31, Insurance Fraud Act;
- (v) is required to be disclosed by abuse reporting laws; or
- (vi) is authorized to be disclosed by the written consent of the individual who is the subject of domestic abuse, if that person is at least 18 years old.

(b) Subsection (3)(a) may not prevent an insured or applicant from obtaining the insured's or applicant's own medical or insurance records.

(c) Disclosure of information permitted under Subsection (3)(a) is subject to any state or federal law related to the confidentiality of medical information.

(d) For purposes of Subsection (3)(a), "third party" does not include an insurer's employees, agents, or contractors who are engaged in the insurer's necessary business operation.

(4) This section may not be construed to prohibit an insurer from:

- (a) asking an applicant or insured about a medical condition, even if the condition is related to domestic violence or child abuse;
- (b) using information obtained under Subsection (4)(a) for the purpose of actions or practices permitted under this part.

Enacted by Chapter 132, 1997 General Session

31A-21-505. Limit on liability.

An insurer that issues a life or accident and health insurance policy to an individual who is the subject of domestic abuse is not liable civilly or criminally for the death of or any injuries to the insured as a result of domestic violence or child abuse beyond the obligations of the insurer under:

- (1) the insurance policy; or
- (2) this title.

Amended by Chapter 116, 2001 General Session

31A-21-506. Enforcement -- Private rights.

(1) An insurer that violates this part is subject to any penalty permitted under this title.

- (2) This part does not:
 - (a) create a private right of action for a violation of this part; or
 - (b) limit or impair the right of an individual to sue and recover damages from the insurer in a civil action for a cause of action that is not based on a violation of this part.

Enacted by Chapter 132, 1997 General Session